

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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Leonard Rupar,

Plaintiff,

v.

Civil No. \_\_\_\_\_

Menard, Inc.,

Defendant.

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**NOTICE OF REMOVAL**

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Pursuant to 28 U.S.C. §§ 1441 and 1446, defendant Menard, Inc. hereby gives notice to plaintiff and shows to the court as follows:

1. Plaintiff alleges in his complaint that he is a resident and citizen of the State of Minnesota and has asserted claims related to his real property located in the State of Minnesota.

2. Defendant Menard, Inc. is a Wisconsin corporation, and its principal place of business is located in the State of Wisconsin.

3. This action was commenced by plaintiff in St. Louis County District Court by service of a summons and complaint on May 16, 2024. A copy of the summons and complaint will be e-filed with this court via ECF. The ECF filing will constitute all process, pleadings and matters served on Menard, Inc. in this action.

4. This action may be removed based on diversity of citizenship. Pursuant to 28 U.S.C. § 1332(a), district courts have original jurisdiction over civil actions where the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and the action is between citizens of different states. Pursuant to 28 U.S. C. § 1332(c), for purposes of determining diversity of citizenship, a corporation is deemed to be a citizen of every state in which it is incorporated and the state where it has its principal place of business.

5. Plaintiff's complaint for relief demands personal injury damages "in excess of one million" and property damage of "100 thousand dollars."

6. The amount in controversy is determined initially by the complaint itself, and the allegations of the complaint will suffice to confer jurisdiction unless it "appears to a legal certainty that the claim is really for less than the jurisdiction amount." *Kopp v. Kopp*, 280 F.3d 883, 884 (8th Cir. 2002), *quoting Larkin v. Brown*, 41 F.3d 387, 388 (8th Cir. 1994).

7. In accordance with U.S.C. § 1446(d), Menard, Inc. has contemporaneously served on plaintiff's counsel a copy of this notice of removal and filed a copy of this notice of removal with the Court Administrator for St. Louis County District Court.

WHEREFORE, notice is hereby given that this action is removed from the state court to this court for trial or such other determination as this court may make regarding this action in accordance with its jurisdiction under 28 U.S.C. §§ 1332 and 1446 and Fed. R. Civ. P. 81(c).

Dated: June 5, 2024

Fryberger, Buchanan, Smith & Frederick

By /s/ Joseph J. Mihalek

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Attorneys for Defendant

Pursuant to 28 U.S.C. § 1746, I, Joseph J. Mihalek, declare under penalty of perjury that the foregoing is true and correct of my own knowledge, except as to any matters stated therein on information and belief, and as to those matters, I believe them to be true.

/s/ Joseph J. Mihalek

Joseph J. Mihalek